

Date: 2/27/09

To: the Select Board

From: Stephanie O'Keeffe

RE: Questions to Town Counsel about Collective Bargaining

At our February 2, 2009 meeting, we determined that we should ask four questions of Town Counsel regarding possible creation/expansion of a role for the Select Board in the collective bargaining process. At our February 9, 2009 meeting, the Town Manager provided some verbal follow-up to those questions, with written answers from Town Counsel still to follow. At that meeting, we determined that we should ask two additional questions, which turned out to overlap a bit with the 2/2 questions. I have received back written answers to the 2/9 questions only. Below are the questions from both meetings, (combined as appropriate,) along with the answers received to date. I hope this is enough to start a discussion about next steps.

Question - Feb 2: Does this section in the Amherst Town Government Act apply to labor contracts?

"3.253 Reviewing grants and contracts

The select board shall review all contracts of over \$1,000,000 and all grants with implication of future financial decisions beyond the current fiscal year."

Question - Feb 9: Does section 3.253 of the Amherst Town Government Act apply to labor contracts, because each contract's total value is more than \$1 million? Or does it not apply, because each new contract covers increases from the previous contract, and those increases do not reach the \$1 million threshold?

ANSWER: (Joel Bard) In response to Stephanie's first question below, [*Note from SO'K: meaning the 2/9 question above*] section 3.253 of the Town Government Act states: "The select board shall review all contracts of over \$1,000,000 and all grants with implication of future financial decisions beyond the current fiscal year." It is our opinion that a labor contract whose overall value exceeds \$1M would be sent to the Select Board for "review" under this section. You would not just look at the value of the increase over the previous contract.

Question - Feb 2: Is it possible for the Select Board to have a seat at the negotiating table for collective bargaining? Would that require a change to the language of the Amherst Town Government Act or the Mass. General Laws?

Question - Feb 2: Without any law changes, to what degree and with what specificity can the Town Manager inform or involve the Select Board in collective bargaining strategy determination and progress updates without violating the requirements for bargaining in good faith?

Question - Feb 2: Are there towns in Massachusetts that give their Select Boards an official role in collective bargaining (having a seat at the negotiating table, being the ratifying body or other) and if so, what do those models look like?

Question - Feb 9: Can we get a list -- not exhaustive, just a sample -- of Massachusetts communities using different models of Select Board-involvement in collective bargaining, and what those models look like, so that we might follow-up with them directly for additional information?

ANSWER: (David Jenkins) The towns that I have recently done negotiations with break down as follows:

Ayer has one member of the BOS and FINCOM assigned to each group.

Hadley assigns two BOS members to each group.

Sunderland has no member of the BOS attend. The town bargaining team is the TA, Police Chief and me.

Woburn is governed by a Mayor. I handle negotiations with the Department Head.

Westport has counsel with the TA with no BOS member

Carver has one BOS member attend with the TA, Chief and me.